

REMARKS

This Amendment is timely filed within the period allowed for response to the outstanding Office Action. Certain claims have been canceled or amended as shown above to clarify various aspects of the claimed invention. The matters raised in the Office Action will be addressed in the same order below.

I. Rejection Under 35 U.S.C. § 112

Claims 69 through 72 were rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner indicated that the claims appeared to be independent claims drafted in dependent claim format. Claims 69, 70, and 72 have been amended as shown above, and claim 71 has been canceled, and the rejection is believed to have been overcome. Reconsideration is respectfully requested.

II. Rejection Under 35 U.S.C. § 102

Claims 38 through 58 and 60 through 72 were rejected under 35 USC § 102(b) as being anticipated by, or in the alternative under 35 U.S.C. 103(a) as obvious in view of, U.S. Patent No. 4,606,734 (Larkin et al.). The Examiner indicated that the “[o]pen ended pocket area, as recited in claim 38 reads on port 33 [of Larkin et al.] when cap 35 is removed for attachment of tubing 73. Accordingly the claimed cannula reads on tubing 73.” Office Action at page 2, para. 4. The Examiner went on to say that “[i]t would also have been obvious to provide the apparatus of Larkin [et al.] with conventional elements of the claims that were deemed to be missing therefrom, for the purpose of improving the performance of the apparatus.” Office Action at page 2, para. 4. Applicants respectfully disagree, for at least the reasons noted below.

Claim 38 has been amended as shown above to clarify certain aspects of the invention claimed therein. Specifically, the cannula is now specified as comprising a portion separating the compartment from the pocket, the separating portion comprising a passage area adapted to be selectively opened by pressure effective on the passage area for placing the compartment in communication with the pocket. A similar feature was previously recited in dependent claim 63,

which has now been cancelled. These features are not believed to be disclosed in or suggested by Larkin et al., and accordingly claim 38 is believed to be in condition for allowance. Because the remaining claims all depend from claim 38, those claims are similarly believed to be in condition for allowance, and reconsideration of the rejection of claims under 35 U.S.C. §§ 102 and 103 is respectfully requested.

Finally, in the event that the pending claims are not allowed, a further opportunity to address the patentability of the claims over the applied prior art in a non-final office action is requested, because the Office Action does not specifically map the features of any of the dependent claims to any of the disclosure of Larkin et al. Accordingly no prima facie case of unpatentability of those claims has been made, and a meaningful opportunity to respond prior to any final office action is respectfully requested.

III. Conclusion

The matters noted in the outstanding Office Action are believed to have been addressed and overcome, and accordingly all pending claims are believed to be in condition for allowance. If a telephone interview with the Applicants' undersigned representative would be useful in resolving any remaining matters related to this application, the Examiner is invited to contact the undersigned at 651-736-4050.

Respectfully submitted,

March 10, 2009

Date

By: _____ /Peter L. Olson/

Peter L. Olson, Reg. No.: 35,308

Telephone No.: 651-736-4050

Office of Intellectual Property Counsel
3M Innovative Properties Company
Facsimile No.: 651-736-3833